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## OFFICE OF PETITIONS

In re Application of  
Boatman, et al.  
Application No. 10/813,415  
Deposited: March 30, 2004  
Attorney Docket No. 8627-453  
For: MEDICAL DEVICE INCLUDING  
UNITARY, CONTINUOUS PORTION OF  
VARYING DUROMETER

DECISION GRANTING  
PETITION

This is a decision on the petition, filed July 16, 2004 (certificate of mailing date July 14, 2004), requesting that the above-identified application be accorded a filing date of March 30, 2004.

The application was deposited on March 30, 2004. On June 14, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on March 30, 2004 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of March 30, 2004 on the basis that 5 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on March 30, 2004. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 30, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 5 sheets of formal drawings. While the OIPE stamp on the postcard lists the application as 10/813,416, it is noted that the postcard identifies the first named inventor and docket number that corresponds to this invention. In addition, the original utility transmittal patent application letter that is present in the application file shows that the application was identified as 10/813,415, as well.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawings were filed on March 30, 2004. MPEP 503. Accordingly, the request is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 30, 2004**, using the copy of the 5 sheets of drawings submitted with

the instant petition. Office records will be corrected to show that 5 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

*E. Shirene Willis*

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Office of Petitions